Google, Inc. v. Affinity Engines, Inc. Doc. 51

G. HOPKINS GUY, III (STATE BAR NO. 124811)
ERIC L. WESENBERG (STATE BAR NO. 139696)
RORY G. BENS (STATE BAR NO. 201674)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

Attorneys for Defendant
AFFINITY ENGINES, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

GOOGLE INC., a Delaware corporation,

Plaintiff,

v.

AFFINITY ENGINES, INC., a Delaware corporation,

Defendant.

Case No. C 05-0598 JW (HRL)

AFFINITY ENGINES, INC.'S MISCELLANEOUS ADMINISTRATIVE REQUEST TO FILE UNDER SEAL PURSUANT TO LOCAL RULES 7-11 AND 79-5:

(1) UNREDACTED MOTION FOR FURTHER CASE MANAGEMENT CONFERENCE RE SCOPE OF BRIN AND PAGE DEPOSITIONS;

(2) EXHIBITS 1 – 12 TO THE DECLARATION OF GABRIEL M. RAMSEY IN SUPPORT OF MOTION FOR FURTHER CASE MANAGEMENT CONFERENCE RE SCOPE OF BRIN AND PAGE DEPOSITIONS

Date: December 5, 2005
Time: 9:00
Judge: Hon. James Ware
Location: Courtroom 8, 4th Floor

Dockets.Justia.com

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Civil Local Rules 79-5 and 7-11, and the Court's inherent authority over its own files and records, defendant Affinity Engines, Inc. ("AEI") files this Miscellaneous Administrative Request for an order sealing documents submitted to the Court.

Specifically, AEI requests that the Court seal the following documents:

(1) Unredacted Motion For Further Case Management Conference Re Scope Of Brin And Page Depositions

(2) Exhibits 1 – 12 To The Declaration Of Gabriel M. Ramsey In Support Of Motion For Further Case Management Conference Re Scope Of Brin And Page Depositions

AEI's Motion for Further Case Management Conference Re Scope Of Brin And Page Depositions is being submitted for filing under seal because it quotes and references documents that both AEI and Google Inc. have designated "Highly Confidential – Attorneys' Eyes Only" under the terms of the protective order entered in the co-pending state court action. [Declaration of Rory G. Bens in Support of AEI's Miscellaneous Administrative Request to File Under Seal ("Bens Decl.") ¶ 2]. Specifically, the motion quotes and references documents, submitted as Exhibits 1 – 12 of the Ramsey Declaration, which contain sensitive, confidential business information. [*Id.*] Both parties have designated these documents as "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court Protective Order. [*Id.*] The parties have not yet submitted a Protective Order in the instant action, but have agreed that all materials produced in the state court action will be considered produced in the instant action. [Bens Decl., Ex. 1] In the interim, a copy of the State Court Protective Order between the parties is submitted herewith. [Bens Decl., Ex. 2]

For this reason, AEI has submitted its Motion in redacted and unredacted forms. In the redacted version, for public filing, confidential and sensitive information has been concealed. The unredacted version of the Motion is designated "Highly Confidential – Attorneys' Eyes Only" by AEI. AEI respectfully requests that the Court authorize the filing of the unredacted version of the Motion under seal pursuant to the terms of the state court Protective Order, to which the parties have agreed. AEI respectfully requests that only the redacted version of the Motion be filed publicly. [Bens Decl., ¶4]

The Declaration of Gabriel M. Ramsey attaches as Exhibits 1 through 12, copies of private business correspondence internal to Google and Affinity Engines and portions of deposition testimony of Google and Affinity Engines witnesses describing sensitive, non-public business matters. [Bens Decl., ¶5] All such correspondence and deposition testimony has been designated by either Google or Affinity Engines, "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court Protective Order. [*Id.*] AEI believes that all such material is, in fact, confidential, business information for which good cause exists to file under seal. [*Id.*, ¶6] For these reasons, AEI has submitted the Exhibits 1-12 to the Ramsey Declaration for filing under seal. AEI respectfully requests that the Court authorize the filing of these materials under seal under the terms of the state court Protective Order.

For the foregoing reasons, AEI respectfully requests that the Court authorize the filing of the aforementioned documents under seal under the terms of the state court Protective Order.

Dated: October 31, 2005

Respectfully submitted,

/s/ Gabriel M. Ramsey
G. Hopkins Guy, III
Eric L. Wesenberg
Rory G. Bens
Gabriel M. Ramsey
Peter J. O'Rourke